sary for one who reviews the results to remember that the man whose chronological age is 25, but whose mental age is 10, has had 15 years of experience and training, more than one whose mental and chronological age is 10. From a superficial observation the former would naturally appear to be entitled to a higher mental grade, which is only apparent for the reason stated, and not real.

In the 250 cases examined, I have found:

Mentally average, or above	89
Morons (Mental age 8 to 12)	147
Imbeciles (Mental age 5 to 7)	14
Total	250

The English Royal Commission of 1904, formulated the following definitions, which have been adopted by the American Association for the study of feeblemindedness.

Morons: Those feeble-minded persons whose mental development is less than normal but exceeds that of imbeciles, and who are capable, under favorable circumstances, of earning their own living. Of this class, you will note, we have 147.

Imbeciles: Those feeble-minded persons whose mental development exceeds that of idiots, but who are incapable of earning their own living. Of this class we have 14.

This partial survey takes into account a little more than half of the population, but I believe final results will show the percentage of defectiveness practically unchanged. These cases were taken numerically; no selection was practised, except in cases where I received a special request from you for an examination to be made.

An attempt was made to find out from those examined the existence of insanity or feeble-mindedness in their parents or families. The difficulty met with here is obvious. Those who are mentally subnormal would have little knowledge of the mental defect in members of their families, unless such persons had been taken to the asylum or school for feeble-minded.

In some cases too, I feel assured that for other reasons information of this kind was denied. Under such conditions of inquiry, however, 10% of those examined admitted having insane or feeble-minded parents or relatives. Five have suffered at some time with fits, epileptic in character, and 20 are admitted masturbators.

I am led to believe by the large percentage of mentally subnormal, the nature of their crimes, and in many cases repetitions, that most of the crimes for which men are committed here should be credited to a lack of intelligence. In other words, their criminal acts seem to be due more to a lack of mental development, and not to acquired viciousness.

I regret that this report is necessarily so incomplete, but other work engaging my time, you will understand, has made it impossible for me to do more in the way of making mental tests up to this time.

Respectfully submitted.

(Signed) E. F. GREEN, Physician.

Psychological Problems of Penal Jurisprudence.—Under the above title Andreotti Alfredo has in the May-June number of *Il Progresso del Diritto*

Criminale, an article entitled *Lulla comunicabilita della causa honoris ai compliai extranei al delitto d'infanticidio,* which deals with one of those exemptional laws peculiar to continental jurisprudence and so foreign to English law, that they are inevitably a shock to a common law lawyer, who equally inevitably congratulates himself on his broad-mindedness, when he overcomes his first surprise and accepts them even in theory. Article 369 of the Italian Penal Code provides that when an infant is killed under certain conditions in order to conceal an illegitimate birth by its mother, her husband, brother or sister, lineal ascendant, or adopted parent, the ordinary punishment for murder is reduced to imprisonment of from three to twelve years. This article came before the Roman Court of Cassation, who handed down the following opinion in part that Art. 369 was, of course, restricted in application to the person therein named, and that "whoever takes part as an accomplice in the killing of an infant, committed by one of the persons named in Art. 309, Penal Code, must be held guilty as an accessory in voluntary homicide." This opinion, of course, may not appeal to American lawyers, for it gives us accessories, guilty, where there is no principal, but our author, being a continental jurist, is not worried on such a score. He takes up "the critical examination of the arguments upon which the theses of the communicability or incommunicability of this *causa honoris* rests." We must, however, before everything else, note the point of view of the Italian court, which has not considered the opportunity as a reason for increasing the punishment as a deterrent, but looks upon the incentive as a reason for decreasing the punishment, because the greater the incentive the less criminality is, *ceteris paribus* involved in the crime. This determined the opinion of the court. The exemption was personal. It was allowed out of regard for the psychological state of certain persons. It was incommunicable in fact, and law must follow fact. However much one may vicariously suffer for the disgrace of a friend, the psychological state is very different from that caused by one's own disgrace, even if such disgrace lies not in one's own shame but in that of a near member of one's family. The exemption should not, therefore, be extended, as the reasons for it do not extend in fact. An accessory is such by reason of his help in an objective fact. A *quid juris* so marks him, that the fact, by reason of the principles, age or provocation is given in his regard to different *nomen juris* and cannot affect him. Thus, the Italian Court held though A, who killed the infant, is for sufficient personal reasons of a psychological nature held guilty of crime. B, who helped him, to whom, however, the said sufficient personal reasons of a psychological nature did not apply, could be guilty of crime because the *quid juris* was the same. This reasoning is perfect. Its wisdom cannot be doubted. It goes to show, as so much of modern Italian law does show, the accuracy and advantage of canon law, as developed by modern science, aided by discoveries in psychology and sociology and applied by men of a scientific and philosophical juridicial training.

Herein lies the interest of Alfredo's review to us. It is not the particular case that should govern. The exemption of the *causa honoris* may be had, perhaps it is impracticable only in America, but the spirit which prompted its enactment and the kind of examination to which it was subjected in the Italian appellate court are qualities which could well be imported into American legislation and American criminal trials. Until this spirit does prompt us in our law making and law enforcing, we cannot hope to accomplish efficiently the

great object of all criminal jurisprudence—the lessening and ultimate and final abolitional of crime. J. L.

COURTS—LAWS.

State Laws Regulating Marriage of the Unfit.—(From the Annual Report of the National League for the Protection of the Family.—Rev. Samuel M. Dike, Sec.)

NO REGULATION BY STATUTE.

Thirteen states and territories make no regulation by statute. These are Alabama, Arizona, Colorado, Florida, Indian Territory, Louisiana, Maryland, Missouri, New Mexico, Pennsylvania, South Dakota, Tennessee, and Texas. But some of these states secure the aims of these restrictive measures through provisions in their divorce laws.

DISQUALIFICATIONS IN OTHER STATES.

Arkansas declares void all marriages when at the time either party is incapable of consenting to the marriage from want of understanding.

California provides for their annulment when either party is of unsound mind.

Connecticut makes the marriage of epileptic, imbecile, or feeble-minded, a criminal act.

Delaware makes marriage with a person who is insane at the time void.

The *District of Columbia* makes voidable the marriage of an idiot or person judged insane.

Georgia declares the marriage of an insane person void.

Idaho provides for the annulment of a marriage when either party is of an unsound mind.

Illinois makes void the marriage of an insane person or an idiot.

Indiana provides that no license to marry shall be issued where either party is an imbecile, epileptic, of unsound mind, nor to any person who is or has been within five years an inmate of any county asylum or home for indigent persons, unless it satisfactorily appears that the cause of such condition has been removed and that such male applicant is able to support a family and likely to so continue, nor shall any license issue when either of the contracting parties is affected with a transmissible disease, or at the time of making application is under the influence of an intoxicating liquor or narcotic drug. (Act of April 15, 1905.)

Iowa makes the marriage of the insane or idiot subject to annulment.

Kansas prohibits the marriage of an epileptic, imbecile, feeble-minded, or insane person except when the woman is over forty-five years of age.

Kentucky prohibits the marriage of an idiot or a lunatic.

Maine declares void the marriage of an insane or idiotic person.

Massachusetts prohibits the marriage of insane persons or idiots.

Michigan prohibits the marriage of insane persons and idiots. It also provides that no person who has been confined in any public institution or asylum as an epileptic, feeble-minded, imbecile, or insane patient shall be capable of contracting marriage unless before the issuance by the county clerk of the license to marry there be filed in the office of said county clerk a verified certificate from two regular physicians of the state that such person has been completely cured of such insanity, epilepsy, imbecility